

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3585 of 2016

=====

Bhagwat Prasad Son of Late Naraiya Mahto Resident of village Gandhi Chowk
Sabji Market, P.S. Jehanabad, District Jehanabad

.... Petitioner

Versus

1. The State of Bihar through the D.M. Jehanabad
2. The Additional Collector, Jehanabad
3. The S.D.O., Sadar, Jehanabad
4. The Labour Enforcement Officer, Labour Office, Jehanabad
5. Mahesh Singh
6. Sumesh Singh

Both sons of Sri Narain Singh

Both Residents of village Baua, P.O. Nagla Kinjer, P.S. Sigori, District- Patna

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate

For the Respondent/s : Mr. Raj Nandan Prasad SC-9

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-04-2017

This writ application has been filed by the petitioner to
quash the order dated 15.12.2015 passed by the Additional
Collector, Jehanabad in Minimum Wages Appeal No. 01/2015-16.

2. Learned counsel for the petitioner has drawn my
attention towards the order of the aforesaid minimum wages appeal
case as contained in Annexure-6 to this writ application.



3. He submitted that from perusal of the order-sheet, it would be evident that on 22.09.2015, 28.10.2015 and 10.11.2015, the petitioner had filed his appearance but due to absence of the Presiding Officer the case was adjourned. He submitted that on 15.12.2015, due to some confusion regarding the fixation of the date when the petitioner could not appear, the impugned order dismissing the appeal for want of prosecution was passed by the Additional Collector, Jehanabad. He submitted that it would also be evident from perusal of the order-sheet as contained in Annexure-6 that certain manipulations were made in the order-sheet and in the marginal note the word “अनुपस्थित” has been inserted in a different handwriting.

4. On the other hand, learned counsel for the State submitted that the petitioner never appeared before the Appellate Authority after filing the appeal and thus the appeal has been dismissed for want of prosecution. He submitted that there is no manipulation in the order-sheet.

5. I have heard learned counsel for the parties and perused the record.

6. From perusal of the orders dated 22.09.2015, 28.10.2015 and 10.11.2015, it stands admitted that on all these dates, the Presiding Officer himself was absent and the only date on



which the petitioner absented to participate in the appeal proceeding was 15.12.2015. The manner in which entry of the word “अनुपस्थित” has been made in the marginal note also creates suspicion.

7. In that view of the matter, the order dated 15.12.2015 is set aside. The matter is remanded to the Appellate Authority to hear the case on merits and decide the same in accordance with law within three months from the date of receipt/production of a copy of this order.

8. The writ application stands allowed.

(Ashwani Kumar Singh, J)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04..2017
Transmission Date	NA

